



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY ENGINEER DIVISION, GREAT LAKES AND OHIO RIVER**  
**CORPS OF ENGINEERS**  
**P.O. BOX 1159**  
**CINCINNATI, OHIO 45201-1159**

REPLY TO  
ATTENTION OF:

CELRD-CM-O (1145)

**MEMORANDUM FOR THE RECORD**

**SUBJECT: Minimal Adverse Effect Determination for the Nationwide Permits Published in the 15 January 2002, Federal Register with Implementation in the Buffalo District jurisdictional boundaries of New York State**

1. In the 15 January 2002 issue of the Federal Register (67 FR 2020), the Corps of Engineers announced the re-issuance of all the existing Nationwide permits (NWP), General Conditions and definitions with some modifications, and one new General Condition.
2. On a National level, the Corps of Engineers issued decision documents that contained an Environmental Assessment, Statement of Findings, and, if necessary, a Section 404(b)(1) analysis for each of the NWPs. Cumulative adverse effects on the aquatic environment were addressed on a regional (District) level.
3. Within the State of New York, the Buffalo District has developed supplemental decision documents (DDs) to discuss and analyze the nature and scope of impacts within its jurisdictional boundaries. The DDs also support the placement of regional conditions to protect the aquatic resources unique to the district or the suspension or revocation of selected NWPs. All of the conditions have undergone a public interest review. The Buffalo District regional conditions have been added as necessary to ensure that authorized activities result in no more than minimal adverse effects on the aquatic environment.
4. In accordance with 33 CFR 330.5(c), the Buffalo District has developed two sets of regional conditions. One set of regional conditions will be applied to all NWPs throughout the entire Buffalo District, referred to as Generally-Applicable Regional Conditions. A second set of regional conditions is unique to aquatic resources within the Buffalo Districts' jurisdictional boundaries of New York and applies only to specific NWPs. These regional conditions are referred to as Permit-Specific and Region-Specific. The following NWPs have Permit-Specific regional conditions: 3, 7, 12, 14, 39, 40, 41, 42 and 43. In addition, Region-Specific regional conditions apply to NWPs 39 and 42.

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5. The Buffalo District has determined that mining activities authorized under NWP 44 would produce more than minimal adverse effects to the aquatic environment. The District was unable to develop practicable general conditions that would protect the aquatic environment without so restricting this NWP to render it useless for use in most of the State. The District has proposed to revoke this NWP and evaluate any proposals on a case-by-case basis.

6. Based on the considerations discussed in the Buffalo District NWP DDs, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that these NWPs - including the terms and conditions, all regional conditions, limitations, and the revocation of NWP #44 - will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

A handwritten signature in black ink, appearing to read 'S. R. Hawkins', with a large, sweeping flourish extending to the right.

STEVEN R. HAWKINS  
Brigadier General, U.S. Army  
Commanding

CF:  
Commander, North Atlantic Division  
Commander, Buffalo District  
Commander, New York District  
CECW-OR